

DATE: APRIL 7, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 59 - 2008

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE repealing existing Section 925.48 "Enforcement" of CHAPTER 925 "SEWERS GENERALLY" of the Codified Ordinances of the City of Massillon, Ohio, and enacting a new Section 925.48 "Pretreatment Violation Enforcement Response Policy" of CHAPTER 925 "SEWERS GENERALLY" of the Codified Ordinances of the City of Massillon, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

Section 925.48 "Enforcement" of CHAPTER 925 "SEWERS GENERALLY" of the Codified Ordinances of the City of Massillon, Ohio, be and is hereby repealed.

Section 2:

That there be and hereby is enacted a new Section 925.48(d) "Pretreatment Violation Enforcement Response Policy" of CHAPTER 925 "SEWERS GENERALLY" of the Codified Ordinances of the City of Massillon, Ohio. Said new section shall read as follow:

(SEE ATTACHED)

Section 3:

This ordinance is hereby declared to be an emergency measure, the reason for the emergency being that changes are necessary for keeping the City of Massillon in compliance with the Ohio EPA guidelines for pretreatment. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS ^{At} 5 DAY OF May, 2008

APPROVED: Mary Beth Bailey
MARY BETH BAILEY, CLERK OF COUNCIL

Glenn E. Gamber
GLENN E. GAMBER, PRESIDENT

APPROVED: May 6, 2008

Francis H. Cicchinelli, Jr.
FRANCIS H. CICCHINELLI, JR., MAYOR

I hereby certify that the foregoing ordinance is a true copy of the original, as passed by the Council of the City of Massillon, Ohio, and approved as noted thereon:

Mary Beth Bailey
Clerk of Council

Date 5/5/08

925.48 Pretreatment Violation Enforcement Response Policy

(a) The following definitions and response criteria shall be used in responding to violations of the City of Massillon Industrial Wastewater Pretreatment Program.

(b) Definitions

- (1) Major Violation – Major violations are those that exceed the limits frequently and/or by a large quantity (e.g., the technical review criteria under Paragraph 6.; impede the determination of compliance status; have the potential to cause or may have actually caused adverse environmental effects, health problems, or interfered with the POTW treatment capability. Any violation that meets the definition of Significant Noncompliance (Paragraph 6.) is considered a major violation.
- (2) Significant Noncompliance (SNC) - Any violation of pretreatment requirements (limits, samplings, analysis, reporting, and meeting compliance schedules, and regulatory deadlines) is an instance of noncompliance for which the Industrial User is liable for enforcement, including penalties. Instances of SNC are Industrial User violations which meet one or more of the following criteria:

(c) Violations of wastewater discharge limits:

- (1) Chronic violations. Sixty-six percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six-month period (any magnitude of exceedance).
- (2) Technical Review Criteria (TRC) violations. Thirty-three percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six-month period.

There are two groups of TRC's:

Group I for conventional pollutants
(BOD, TSS, pH, Oil and Grease) TRC = 1.4

Group II for all other pollutants TRC = 1.2

- (3) Any other violation (s) of an effluent limit (average or daily maximum) that the City believes has caused, alone or in combination with other dischargers, interference (e.g. slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health /welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

- (d) **Violations of compliance schedule milestones**, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- (e) Failure to provide **reports** for compliance scheduled, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) with 30 days from the due date.
- (f) Failure to accurately report noncompliance.

(g) Any other violation or group of violations that the City considers to be significant.

(h) Industrial User (IU) Violation Response Categories

Level 1 (L1) – Telephone Call

Level 2 (L2) – Notice of Violation (NOV)

Level 3 (L3) – Administrative Order (AO)

Level 4 (L4) – Administrative Order and /or Penalty

Level 5 (L5) – Administrative Order and /or Penalty and/or Judicial Action

Level 6 (L6) – Administrative Order and /or Penalty and/or Judicial Action and/or
Show Cause Hearing and/or Termination of Service

(i) Titles and Timeframes for Industrial Users Violation Response Categories

Level 1 – Immediately, Pretreatment Coordinator, Pretreatment Inspector

Level 2 – 5 Days, Pretreatment Coordinator, Pretreatment Inspector, Manager

Level 3 – 10 Days, Manager, City Engineer, Service Director

Level 4 – 10 Days, Manager, City Engineer, Service Director

Level 5 – 30 Days, Manager, City Engineer, Service Director, Law Director

Level 6 – 30 Days, Manager, City Engineer, Service Director, Law Director

(j) Pretreatment Enforcement Criteria

The following pages represent the City's Pretreatment Enforcement Response Criteria:

Enforcement Response Criteria

<u>Noncompliance</u>	<u>Nature of Violation</u>	<u>Range of Responses</u>
<u>A. ILLEGAL DISCHARGE</u>		
1 Nonpermitted discharge	Failure to apply for permit renewal, no environmental or POTW damage.	L4
2 Unpermitted discharge	Discharger unaware of permit requirement, no environmental or POTW damage	L3
3 Unpermitted discharge	Results in vioaltion of POTW NPDES permit, or dangerous situation -- (SNC)	L5
<u>B..DISCHARGE STANDARD VIOLATION</u>		
1 Exceedance of discharge limits (local or categorical)	Isolated, nonsignificant (<120% of limit)	L1 - initial violation L2 - subsequent violations
2 Exceedance of discharge limits	Frequent, nonsignificant (repeated offense)	L4
3 Exceedance of discharge limits	SNC	L5
4 Exceedance of discharge limits	Results in know environmental or POTW damage (endangerment to life)	L5
5 Slug load discharge	Isolated without known damage	L3
6 Slug load discharge	Isolated with known interference, pass - through, or damage results -- (SNC)	L5
7 Slug load discharge	Recurring -- (SNC)	L6

Enforcement Response Criteria (Cont'd)

<u>Noncompliance</u>		<u>Nature of Violation</u>	<u>Range of Responses</u>
C. SAMPLING, MONITORING AND REPORTING VIOLATIONS			
1	Minor sampling, monitoring or reporting deficiencies	Isolated or infrequent (1st or 2nd offense)	L1 - initial violation L2 - subsequent violation
2	Minor sampling, monitoring or reporting deficiencies	Frequent (repeated offense) or continuous	L3
3	Major sampling, monitoring or reporting deficiencies	Isolated or infrequent (1st or 2nd offense)	L3
4	Major sampling, monitoring or reporting deficiencies	Frequent (repeated offense) or continuous to become SNC	L4
5	Complete failure to sample, monitor or report	SNC	L5
6	Continued failure to sample, monitor or report	Violation of NOV condition	L6
7	Failure to submit schedule of compliance (SOC)	Violation of consent order or AO	L6
8	Failure to notify of effluent limit violation of slug discharge	Isolated or infrequent. No known effects	L2
9	Failure to notify of effluent limit violation of slug discharge	Frequent or continued violation -- (SNC)	L5
10	Failure to notify of effluent limit violation or slug discharge	Known environmental or POTW damage results -- (SNC)	L6

Enforcement Response Criteria (Cont'd)

<u>Noncompliance</u>		<u>Nature of Violation</u>	<u>Range of Responses</u>
<u>D. COMPLIANCE SCHEDULE</u>			
1	Missed milestone date	Will not affect other milestone dates or final date	L2
2	Missed milestone date	Will affect other milestone or final date. Violation for good or valid cause.	L3
3	Missed milestone date	Will affect other milestone or final date. Violation not for a good or valid cause -- (SNC)	L5
4	Failure to meet compliance schedule reporting requirements	Did not submit report but did complete milestone	L2
5	Failure to meet compliance schedule reporting requirements	Did not submit report and did not complete milestone	L4
6	Missed final date	Good or valid cause	L2
7	Missed final date	30 days or more outstanding Failure or refusal to comply without good or valid cause	L5
8	Reporting false information	Any instance -- (SNC)	L5

Enforcement Response Criteria (Cont'd)

<u>Noncompliance</u>	<u>Nature of Violation</u>	<u>Range of Responses</u>
----------------------	----------------------------	---------------------------

E. SPILL INCIDENTS

1	Spill incident	Reported and investigated	L3
2	Repeated spill incidents	Failure to upgrade or develop spill prevention program	L4
3	Repeated spill incidents	Failure to act on a decision of compliance meeting and results in known environmental damage or WWTP damage	L5

F. VIOLATIONS DETECTED DURING FIELD INSPECTIONS/INVESTIGATIONS

1	Minor violation of analytical procedures	Any instance	L2
2	Major violation of analytical procedures	No evidence of intent	L3
3	Major violation of analytical procedures	Evidence of negligence or intent -- (SNC)	L5
4	Minor violation of permit condition	No evidence of negligence or intent	L3
5	Minor violation of permit condition	Evidence of negligence or intent	L4
6	Major violation of permit condition	Evidence of negligence or intent --(SNC)	L5